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Ct-08

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MAT 400 of 2023
with
I.A No. CAN 3 of 2023

Dr. Manik Bhattacharya
Vs.
The West Bengal Board of
Primary Education & Ors.

with

MAT 410 of 2023
with
I.A No. CAN 2 of 2023

Dr. Manik Bhattacharya
Vs.
The West Bengal Board of
Primary Education & Ors.

Mr. Sourav Kumar Mukherjee
Ms. Anjana Banerjee
Mr. S. Pal

... For the Appellant
in both the appeals

Mr. Ratul Biswas
Mr. Kaushik Chowdhury

... For WBBPE
in both the appeals

Mr. Tirthankar Dey
Mr. S. Naiya

... For the Respondent no. 4
in both the appeals

1. We have heard the learned counsel
appearing for the parties.

2. Learned counsel for the writ
petitioner/respondent no. 4 has fairly submitted
that the writ petitioner treated the contents of
the notice dated 20.01.2022 as the basis for his
application under the Right to Information Act.
The writ petitioner, however, basically wants to
know his marks and OMR sheets/ digitized data

sheets, which liberty was given to all the unsuccessful TET-2017 candidates. The Board returned the demand draft on the ground that R.T.I application has not been submitted on the basis of the Board's guidelines. It appears to be the misconception and misunderstanding of the writ petitioner with regard to the notice dated 20.01.2022.

3. On such consideration, we do not find any culpable negligence on the part of the erstwhile President in not processing the said application. In fact, it would appear from the said notification that the Secretary of the Board was the authority who was considering the said application. For the reasons recorded in the earlier order dated 27th July, 2023 and in this order, the impugned order dated 25th January, 2023, by directing payment of cost of Rs. 5 lakhs to be paid by erstwhile President personally, is set aside. We make it clear that we do not interfere with the other direction passed by the learned Single Judge.

4. Interim order of stay passed on 27.7.2023 in CAN 3 of 2023 in connection with MAT 400 of 2023 and in CAN 2 of 2023 in connection with MAT 410 of 2023 stands confirmed.

5. We direct the Deputy Secretary of the Board to supply OMR sheets/ digitized data sheets to the petitioner pertaining to the written examination of TET-2017 held on 31st January, 2021.

6. Learned counsel for the Board has submitted that supply of original OMR sheets for the relevant year is pending before the Hon'ble Supreme Court.

7. In view thereof, for the time being digitized data sheets of the original OMR pertaining to her written examination shall be supplied to the petitioner within two weeks from date. The acceptance of the said digitized data sheets would not prevent the writ petitioner to pray for production of original OMR sheets, subject to the result of the pending SLP.

8. Learned counsel for the writ petitioner has submitted that in view of the aforesaid order the writ petition itself can also be disposed of as the grievance of the petitioner has been substantially addressed.

9. Under such circumstances, the appeals being MAT 400 of 2023 and MAT 410 of 2023 are disposed of along with WPA 16564 of 2022 leaving the issue open with regard to the

entitlement of the petitioner to get original OMR sheets in relation to the examination of TET-2017 held on 31st January, 2021.

10. In the event there is a direction from the Apex court with regard to furnish of original OMR sheets for the relevant year, the writ petitioner shall be entitled to pray for modification of this order by filing an application.

11. In view of the aforesaid order the impugned order of attachment of bank accounts and properties for non-payment of cost is set aside.

12. MAT 410 of 20232 is allowed.

13. We make it Clear that attachment of bank account and properties in other proceedings if any, shall not be affected by this order.

14. In view of disposal of both the appeals CAN 3 of 2023 in connection with MAT 400 of 2023 and in CAN 2 of 2023 in connection with MAT 410 of 2023 are also disposed of.

15. Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Uday Kumar, J.)

(Soumen Sen, J.)

